

ORDINANCE NO. 90-29

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, PROVIDING FOR AMENDMENT TO THE ELECTRIC FRANCHISE AGREEMENT WITH FLORIDA POWER & LIGHT COMPANY IN THE UNINCORPORATED AREAS OF PALM BEACH COUNTY, ADJUSTING FROM FOUR PERCENT TO SIX PERCENT THE AMOUNT OF REVENUE PAID TO PALM BEACH COUNTY BY FLORIDA POWER & LIGHT COMPANY; PROVIDING FOR DELIVERY OF A CERTIFIED COPY OF THE ORDINANCE TO FLORIDA POWER & LIGHT COMPANY; PROVIDING THAT THE ORDINANCE DOES NOT OTHERWISE AMEND ORDINANCE 85-39; PROVIDING FOR CODIFICATION OF THE ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Palm Beach County entered into its current electric franchise agreement with Florida Power & Light Company in Ordinance 85-39 which was adopted by the Board of County Commissioners of Palm Beach County on December 10, 1985 and filed with the Secretary of State December 11, 1985; and

WHEREAS, Florida Power & Light company filed an acceptance of the electric franchise on December 27, 1985 and the franchise went into effect upon that date; and

WHEREAS, Ordinance 85-39 provides that Palm Beach County shall have the option to adjust the amounts paid to the County under the agreement from four percent to an amount not to exceed six percent for the sixth and subsequent years of the grant; and

WHEREAS, Ordinance 85-39 provides such option shall be exercised by delivering a certified copy of an ordinance exercising the option to Florida Power & Light Company no later than ninety (90) days before the fifth anniversary of the grant, therefore

1 necessitating delivery of an ordinance to Florida Power & Light
2 Company on or before September 28, 1990; and

3 WHEREAS, Palm Beach County has determined that it is in
4 the interest of the County to exercise the option provided in the
5 current franchise agreement and to raise the total amount paid by
6 Florida Power & Light Company to Palm Beach County to six percent.

7 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
8 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

9 SECTION 1. AMENDMENT TO FRANCHISE AGREEMENT

10 Palm Beach County hereby exercises the option provided in
11 Section 5 of Ordinance 85-39 to raise the franchise fee with
12 Florida Power & Light Company for electricity in the unincorporated
13 areas of Palm Beach County as follows:

14 No later than sixty (60) days after the sixth
15 anniversary date of this grant and no later
16 than sixty (60) days after each succeeding
17 anniversary date of this grant, the Grantee,
18 its successors and assigns, shall have paid to
19 the Grantor and its successors an amount which
20 added to the amount of all taxes as assessed,
21 levied or imposed (without regard to any
22 discount for early payment or any interest or
23 penalty for late payment), special
24 assessments, licenses, excises, fees, charges
25 and other impositions of any kind whatsoever
26 (except the County school tax and the taxes
27 for county school districts levied under
28 Article VII, Section 9, of the Constitution of
29 the State of Florida as constituted on the
30 date of this grant and except amounts for
31 assessments for special benefits, such as
32 sidewalks, street paving and similar

1 improvements) levied or imposed upon the
2 Grantee's electric property, business or
3 operations, and those of Grantee's electric
4 subsidiaries within Palm Beach County,
5 Florida, by the Grantor for itself or for the
6 benefit of any other general or special public
7 or other governmental body located in whole or
8 in part within the limits of Palm Beach
9 County, Florida, or so levied or imposed by or
10 under any authority other than municipalities
11 for the benefit of any general or special
12 public or other governmental body, located in
13 whole or in part within the limits of Palm
14 Beach County, Florida, including the Grantor,
15 for the preceding tax year, will equal six
16 percent (6%) of Grantee's revenues from the
17 sale of electrical energy to residential,
18 commercial and industrial customers within the
19 unincorporated areas of Palm Beach County,
20 Florida, for the twelve (12) fiscal months
21 preceding the applicable anniversary date.

22 SECTION 2. DELIVERY OF CERTIFIED COPY OF ORDINANCE TO
23 FLORIDA POWER & LIGHT COMPANY

24 As a condition precedent to the taking effect of the
25 option exercised by this ordinance, Palm Beach County shall deliver
26 to Florida Power & Light Company a certified copy of this ordinance
27 no later than ninety (90) days before the fifth anniversary date of
28 the franchise grant in Ordinance 85-39.

29 SECTION 3. EXERCISE OF OPTION DOES NOT AMEND OTHER
30 PROVISIONS OF ORDINANCE 85-39.

31 This ordinance does not amend any other provision or
32 section of the franchise agreement with Florida Power & Light

Company except as set forth in Section 1 of this ordinance.

SECTION 4. THE PROVISIONS OF THIS ORDINANCE SHALL BE
MADE A PART OF THE CODE OF LAWS AND ORDINANCES OF PALM BEACH COUNTY

The sections of the ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," and any other appropriate word.

SECTION 5. SEVERABILITY

If any section, paragraph, sentence, clause, phrase, or word of this ordinance is for any reason held by the Court to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this ordinance.

SECTION 6. EFFECTIVE DATE

The provisions of this ordinance shall become effective upon receipt of acknowledgement by the Secretary of State.

APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach County, Florida on 11th day of September, 1990.

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By [Signature]
Vice-Chair, Board of County Commissioners
JOHN B. DUNKLE, CLERK
Board of County Commissioners
By [Signature]
DEPUTY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

[Signature]
County Attorney

Acknowledgement by the Department of State of the State of Florida on this, the 14th day of September, 1990.

EFFECTIVE DATE: Acknowledgement from the Department of State received on the 17th day of September, 1990, at 9:39 A.M. and filed in the Office of the Clerk of the Board of County Commissioners of Palm Beach County, Florida.

(FPL1)

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, JOHN B. DUNKLE, ex-officio Clerk of the
Board of County Commissioners certify this to
be a true and correct copy of the original filed in
my office on 9/17/90
DATED at West Palm Beach, FL on 9/17/90.
JOHN B. DUNKLE, Clerk.
By: [Signature]
Deputy Clerk